



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2016-0003]

Notice of Buy America Waiver for a Fall Arrest System.

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: In response to the request of the Indianapolis Public Transportation Corporation (IPTC) for a Buy America non-availability waiver for the procurement of a Horizontal Lifeline Fall Protection Maintenance Tie Back System (System), the Federal Transit Administration (FTA) hereby waives its Buy America requirements, finding that the materials for which the waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality. This waiver is limited to a single procurement by IPTC for the System.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Laura Ames, FTA Attorney-Advisor, at (202) 366-2743 or Laura.Ames@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA has granted a Buy America non-availability waiver for IPTC for the procurement of a Horizontal Lifeline Fall Protection Maintenance Tie Back System under 49 U.S.C. 5323(j)(2)(B) and 49 CFR 661.7(c).

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of

the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that “the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,” then FTA may issue a non-availability waiver. 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c). “It will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.” 49 CFR 661.7(c)(1).

IPTC is constructing a Downtown Transit Center (DTC) in Indianapolis, Indiana, that will serve as the hub for public transit. It will include a large indoor public waiting area and bus bays while serving pedestrians, cyclists, and bus riders. Per Occupational Safety and Health Administration (OSHA) regulations, IPTC is required to provide fall protection for employees performing maintenance on the new building. IPTC entered into a contract with Weddle Bros. Building Group (WBBG) in early September 2014 for the construction of the DTC. WBBG certified in good faith that it would comply with Buy America. As part of the project, IPTC issued an RFP for the complete design, supply, and installation of a fall protection maintenance tie-back system to safeguard personnel to include all cable, intermediate brackets, end terminations, and modifications of structural steel as required for supplementary support of stanchions, user equipment, and attachment to roof structure for a complete and working fall protection maintenance tie-back system.

Two firms, American Anchor and Pro-Bel Group, responded to the RFP, but did not certify compliance with the Buy America regulations. The cables and tensioning system are not

manufactured domestically for Pro-Bel. The hands-free set ups are not manufactured domestically for American Anchor. IPTC submitted a waiver request based on non-availability under 49 CFR 661.7(c). FTA also conducted a scouting search for the fall arrest system through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). The scouting search did not identify a domestic manufacturer of a system that met IPTC's specifications.

On Tuesday March 22, 2016, and in accordance with 49 U.S.C. 5323(j)(3)(A), FTA published a notice in the **Federal Register** announcing the Buy America waiver request (81 FR 15411), seeking comment from all interested parties, including potential vendors and suppliers. The comment period closed on March 29, 2016, and no comments were received.

Therefore, based on the information supplied in support of IPTC's request for a Buy America waiver for the System, including NIST's inability to locate a domestic manufacturer that currently produces a similar system and the lack of any comments, FTA hereby waives its Buy America requirements for the Horizontal Lifeline Fall Protection Maintenance Tie Back System on the grounds that the manufactured product is not available in the U.S. This waiver is limited to a single procurement for the Horizontal Lifeline Fall Protection Maintenance Tie Back System by IPTC.

Issued on April 14, 2016.

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